

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO.: 3:04CV342**

<b>MIVIALVA FERNANDEZ,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>ORDER</b>
	)	
<b>STAPLES, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**THIS MATTER** is before the Court on its own motion. On July 16, 2004, Plaintiff filed an “Application to Proceed Without Prepayment of Fees and Affidavit.” On July 20, 2004, the Court issued an Order denying Plaintiff’s request and advised Plaintiff of his need to pay a filing fee of one hundred and fifty dollars (\$150.00) within thirty (30) days of the Order. Plaintiff was cautioned by the Court that failure to pay the filing fee could subject his lawsuit to dismissal for failure to prosecute.

Since the July 20, 2004 Order, Plaintiff has neither paid the filing fee, nor has he taken further action with regard to this lawsuit. In light of the Court’s prior warning to Plaintiff and pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiff’s lawsuit is hereby **dismissed without prejudice for failure to prosecute.**

**SO ORDERED.**

**Signed: May 24, 2005**



Graham C. Mullen  
Chief United States District Judge

